NOTIFICATION.

No. L.D. 3345—Legis. 3-50-16, dated Bangalore, 9th March 1951.

Ordered that the following Indian Standards Institution (Certification Marks) Bill, 1951 (No. 2 of 1951), published in the *Gazette of India*, Part II, Section 2, dated the 3rd February 1951, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
Legal Remembrancer and Secretary to Government, Law Department.

PARLIAMENT SECRETARIAT

NOTIFICATION

New Delhi, the 3rd February 1951

F. 6-L/51.—Under Rule 55 of the Rules of Procedure and Conduct of Business in Parliament, the Speaker has been pleased to order the publication in the *Gazette of India* of the following Bill, together with the Statement of Objects and Reasons relating thereto, and the Bill and the Statement of Objects and Reasons are accordingly published for general information :—

BILL NO. 2 OF 1951

A Bill to provide for the standardisation and marking of goods.

BE it enacted by Parliament as follows :—

1. *Short title and extent.*—(*1*) This Act may be called the Indian Standards Institution (Certification Marks) Act, 1951.

(*2*) It extends to the whole of India except the State of Jammu and Kashmir.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(*a*) "article" means (as respects standardisation and marking) any substance, artificial or natural, or partly artificial or partly natural, whether raw or partly or wholly processed or manufactured ;

(*b*) "covering" includes any stopper, cask, bottle, vessel, box, crate, cover, capsule, case, frame, wrapper or other container ;

(*c*) "Indian Standard" means the standard (including any tentative or provincial standard) established and published by the Indian Standards Institution, in relation to any article or process indicative of the quality and specification of such article or process ;

(*d*) "Inspector" means an Inspector appointed under section 8 ;

(e) "Institution" means the Indian Standards Institution set up under the Resolution of the Government of India in the late Department of Industries and Supplies No. 1 Std. (4)/45, dated the 3rd day of September, 1946, and registered under the Societies Registration Act, 1860 (XXI of 1860);

(f) "licence" means a licence granted under this Act to use the Indian Standards Institution Certification Mark, in relation to any article or process which conforms to the Indian Standard;

(g) "mark" includes a device, brand, heading, label, ticket, name, signature, word, letter or numeral or any combination thereof;

(h) "prescribed" means prescribed by regulations made under this Act;

(i) "process" includes any practice, treatment and mode of manufacture of any article;

(j) "registering authority" means any authority competent under any law for the time being in force to register any company, firm or other body of persons, or any trade mark or design, or to grant a patent;

(k) "specification" means a description of an article or process as far as practicable by reference to its nature, quality, strength, purity, composition, quantity, dimensions, weight, grade, durability, origin, age, material, mode of manufacture or other characteristics to distinguish it from any other article or process;

(l) "Standard Mark" means the Indian Standards Institution Certification Mark specified by the Indian Standards Institution to represent a particular Indian Standard;

(m) "trade mark" means a mark used or proposed to be used in relation to goods for the purpose of indicating, or so as to indicate, a connection in the course of trade between the goods and some person having the right, either as proprietor or as registered user, to use the mark, whether with or without any indication of the identity of that person;

(n) an article or process is said to be marked with a Standard Mark if the article or process itself is marked with a Standard Mark or any covering containing, or label attached to, such article is so marked.

3. *Powers and duties of the Institution.*—The Institution may exercise such powers and perform such duties as may be assigned to it by or under this Act, and, in particular, such powers include power to—

(a) establish and publish, in such manner as may be prescribed, the Indian Standard in relation to any article or process;

(b) specify a Standard Mark to be called the Indian Standards Institution Certification Mark, which shall be of such design and contain such specifications as may be prescribed to represent a particular Indian Standard;

(c) to grant, renew, suspend or cancel, in such manner as may be prescribed, a licence for the use of the Standard Mark;

(d) levy such fees for the grant or renewal of any licence as may be prescribed;

(e) make such inspection and take such samples of any material or substance as may be necessary to see whether any article or process bearing the Standard Mark conforms to the Indian Standard or whether such

article or process has been improperly marked with the Standard Mark with or without licence;

(*f*) authorise any person to search any place and seize anything in respect of which he has reason to believe that the Standard Mark has been, or is about to be, improperly used.

4. *Constitution of Certification Marks Division Council.*—The Institution may constitute a Certification Marks Division Council, consisting of such number of members as it thinks fit for exercising such powers and performing such duties as may be prescribed.

5. *Prohibition of improper use of Standard Mark.*—(*1*) No person shall use, in relation to any article or process, or in the title of any patent, or in any trade mark or design the Standard Mark or any colourable imitation thereof, except under a licence granted under this Act.

(*2*) No person shall, notwithstanding that he has been granted a licence, use in relation to any article or process the Standard Mark or any colourable imitation thereof unless such article or process conforms to the Indian Standard.

6. *Prohibition of use of certain names, etc.*—(*1*) Subject to the provisions of this section, no person shall, except in such cases and under such conditions as may be prescribed, use without the previous permission of the Institution,—

(*a*) any name which so nearly resembles the name of the Indian Standards Institution as to deceive the public or which contains the expressions "Standard" or "Indian Standard" or any combination of abbreviation of such expressions, or

(*b*) any mark or trade mark in relation to any article or process containing the expressions "Standard", "Indian Standard" or "Indian Standard specification" or any combination or abbreviation of such expressions.

(*2*) Nothing in sub-section (*1*) shall apply to any mark or trade mark in relation to any article imported into India, provided that the country of origin or manufacture, and in the case of a certification mark granted in a country outside India, the authority under which such certification mark is used, is displayed along with each mark or trade mark.

7. *Prohibition of registration in certain cases.*—(*1*) Notwithstanding anything contained in any law for the time being in force, no registering authority shall—

(*a*) register any company, firm or other body of persons which bears any name, or

(*b*) register a trade mark or design which bears any name or mark, or

(*c*) grant a patent, in respect of an invention, which bears a title containing any name or mark,

if the use of such name or mark is in contravention of section 5 or section 6.

(*2*) If any question arises before a registering authority whether the use of any name or mark is in contravention of section 5 or section 6, the registering authority may refer the question to the Central Government, whose decision thereon shall be final.

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8. *Inspectors.*—(*1*) The Institution may appoint as many Inspectors as may be necessary for the purpose of inspecting whether any article or process bearing the Standard Mark conform to the Indian Standard or whether such article or process has been improperly marked with the Standard Mark with or without licence, and for the purpose of performing such other functions as may be assigned to them.

(*2*) Subject to any regulations made under this Act, an Inspector shall have power to—

(*a*) inspect any operation carried on in connection with any article or process bearing the Standard Mark;

(*b*) take samples of any material or substance used or suspected to be used for any article or process bearing the Standard Mark;

(*c*) examine at all reasonable times any books of account or other documents relating to any article or process bearing the Standard Mark and require the production of such books of account or other documents;

(*d*) seize any such books of account or documents or place marks of identification thereon or take extracts or copies therefrom;

(*e*) enter, with such assistance, if any, as he thinks fit, any premises or place where any article or process bearing the Standard Mark is produced or suspected to be produced;

(*f*) examine any person in such premises or place and require that person to give any information, which is in his power to give, with respect to the production of any article or process bearing the Standard Mark;

(*g*) if specially authorised in this behalf by the Institution, search the premises and seize anything in respect of which he has reason to believe that the Standard Mark has been, or is about to be, improperly used, and the provisions of the Code of Criminal Procedure, 1898 (Act V of 1898) relating to searches shall, as far as may be, apply to searches made under this section;

(*h*) exercise such other powers as may be prescribed.

(*3*) Every Inspector shall submit to the Institution such reports as the Institution may require.

(*4*) Every Inspector shall be furnished by the Institution with a certificate of appointment as an Inspector, and the certificate shall, on demand, be produced by the Inspector.

9. *Returns and reports.*—Every licensee shall submit to the Institution such returns and reports and such samples of any material or substance used or suspected to be used in relation to any article or process as the Institution may direct.

10. *Delegation.*—(*1*) The Institution may, by notification in the Official Gazette, direct that any power exercisable by it under this Act shall, in relation to such matters and subject to such conditions as may be specified in the direction, be exercisable also by such person or such organisation of any industry as may be specified in the notification (hereinafter referred to as the authorised agent).

(*2*) If any authorised agent commits any breach of the conditions subject to which power was delegated to such agent or if such authorised agent fails, in the opinion of the Institution, to perform its functions satisfactorily, the

Institution may, by notification in the Official Gazette, withdraw the powers delegated to such agent.

11. *Appeal.*—(*1*) Any person aggrieved by an order made under clause (*c*) or clause (*f*) of section 3 may prefer an appeal—

(*a*) to the Institution, where the original order has been passed by an authorised agent or the Certification Marks Division Council, or

(*b*) to the Central Government, where the original order has been passed by the Institution.

(*2*) Any person aggrieved by any order made or any action taken by an Inspector may prefer an appeal to the Institution.

(*3*) An authorised agent whose delegated powers have been withdrawn by the Institution may prefer an appeal to the Central Government.

(*4*) The appeal shall be presented in such manner and within such time as may be prescribed.

(*5*) The Central Government or the Institution, hearing an appeal under this section, shall follow such procedure as may be prescribed.

12. *Certain matters to be kept confidential.*—Any information obtained by an Inspector, authorised agent, or the Institution from any statement made or returns or reports furnished or in any evidence given or from inspection made under the provisions of this Act shall be treated as confidential:

Provided that nothing in this section shall apply to the disclosure of any information for the purpose of prosecution under this Act.

13. *Penalty for improper use of Standard Marks, etc.*—(*1*) Any authorised agent who contravenes the provisions of section 5 or section 6 shall be punishable with fine which may extend to fifty thousand rupees.

(*2*) Any person other than an authorised agent, who contravenes the provisions of section 5 or section 6 shall be punishable with fine which may extend to five thousand rupees.

(*3*) Any court trying a contravention under sub-section (*1*) or sub-section (*2*) may direct that any property in respect of which the contravention has been made shall be forfeited to the Government.

14. *Penalty for other offences.*—Whoever contravenes any of the provisions of this Act or of any regulation made thereunder shall, if no other penalty is elsewhere provided by or under this Act for such contravention, be punishable with fine which may extend to one thousand rupees.

15. *Cognizance of offences by courts.*—(*1*) No court shall take cognizance of any offence punishable under this Act, save on complaint made by or under the authority of the Institution or by an officer empowered in this behalf by the Institution.

(*2*) No court inferior to that of a presidency magistrate or a magistrate of the first class specially empowered in this behalf shall try any offence punishable under this Act.

16. *Protection of action taken under this Act.*—No suit, prosecution or other legal proceeding shall lie against the Central Government or the Institution or any person acting under the authority of the Central Government or the Institution for anything which is in good faith done or intended to be done in pursuance of this Act or of any regulation made thereunder.

17. *Act not to apply to agricultural produce or drugs.*—Nothing in this Act shall apply—

(*a*) to any scheduled article within the meaning of the Agricultural Produce (Grading and Marking) Act, 1937 (1 of 1937); or

(*b*) any drug within the meaning of the Drugs Act, 1940 (XXIII of 1940).

18. *Savings.*—Nothing in this Act shall exempt any person from any suit or other proceeding which might, apart from this Act, be brought against him.

19. *Power to make regulations.*—(*1*) The Institution may, after previous publication, by notification in the Official Gazette, make regulations to carry out the purposes of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely :—

(*a*) the procedure and manner in which the Indian Standard, in relation to any article or process, may be established and published;

(*b*) the design of the Standard Mark in relation to each Indian Standard and the particulars which a Standard Mark may contain;

(*c*) the delegation of powers to an authorised agent;

(*d*) the manner in which and the conditions subject to which a licence to use the Standard Mark may be granted, renewed, suspended or cancelled;

(*e*) the levy of fees for the grant or renewal of any licence;

(*f*) the mode of inspection by the Institution and the manner in which samples may be taken by it;

(*g*) the manner in which search may be made and articles seized by the Institution;

(*h*) the constitution, powers and functions of the Certification Marks Division Council;

(*i*) the cases in which and the circumstances under which exemption may be granted from the prohibition contained in section 6;

(*j*) the powers of Inspectors;

(*k*) the form and manner in which and the time within which appeals may be preferred; the procedure to be followed in hearing appeals;

(*l*) the forms to be used under this Act;

(*m*) any other matter which has to be, or may be, prescribed under this Act.

(*3*) In making any regulation under this section, the Institution may provide that a breach thereof shall be punishable with fine which may extend to one thousand rupees.

STATEMENT OF OBJECTS AND REASONS

As a prerequisite to the establishment of a healthy trade, both internal and external, standardisation of products in respect of quality which would compare very favourably with the established makes of foreign products, is essential

and needs no emphasis. With this object in view the Government of India in the Department of Industries and Supplies in their Resolution No. 1Std.(4)/45, dated the 3rd September, 1946, set up the Indian Standards Institution with, *inter alia*, the following functions:—

(*a*) to prepare and promote the general adoption of standards on national and international basis,

(*b*) to promote standardisation, quality control and simplification in industry,

(*c*) to provide for registration of standardisation marks applicable to products, commodities, etc.,

(*d*) to provide or arrange facilities for the examination and testing of commodities, etc.

The Indian Standards Institution have drawn up or are now finalising the Indian Standard Specifications for most of the commodities and manufactured articles which figure in our export trade with overseas countries, and also in the home markets.

2. The Certification Mark is a convenient measure to secure standardisation of commodities and is in use in many progressive countries, such as the U.K., France, etc. As defined in the Trade Marks Act, it is a mark adapted in relation to any goods to distinguish in the course of trade goods certified by any person in respect of origin, material, mode of manufacture, quality, accuracy or other characteristic, from goods not so certified. The underlying idea is to convey this assurance to the purchaser that the goods or services so certified have been inspected, tested, and certified by some agency of competence and that they may be purchased with more than ordinary assurance that certain standards of quality have been met.

3. The present Bill seeks to achieve the objects as set forth in Government Resolution, dated the 3rd September, 1946.

HARE KRUSHNA MAHTAB.

NEW DELHI;

The 20th January, 1951.

M. N. KAUL,

Secretary.

Printed by the Director of Printing, Stationery and Publications at the Government Press, Bangalore.